IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION No: 25164 of 2004

Between:

V. Venkateswarlu, S/o. Ramaiah, Hindu,
Nagambotlapalem Village, Tallur Mandal, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Prakasam Dsitrict at Ongole.
2 The Revenue Divisional Officer, Kandukur, Prakasam Dist.
3 The Mandal Revenue Officer, Tallur Mandal, Prakasam District.

4 Garikapati Venkada, S/o. Chandra Das, 40 years.

5 Belamkonda Venkata Rao, S/o. B.Venkaiah, 32 years.

6 Nadendla Hussain, S/o. N.Sambaiah, 65 years.

7 Bojja Narasaiah, S/o. Chinna Guravaiah, 52 years.

(Respondents 4 to 6 are residents of Nagabotlapalem village, Tallur Mandal, Prakasam District)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order of the Revenue Divisional Officer, Kandukur, Prakasam District, the 2nd respondent herein in issued in his proceedings in RCF/3132/2004 dated 16-12-2004 suspending the permanent dealership authorisation of petitioner of fair price shop of Nagambotlapalem Village, Tallur Mandal, Prakasam District, and consequential inaction of the Joint Collector, Ongole, Prakasam District, the 1st respondent herein not disposing herein in not disposing of the stay petition and appeal his file of the petitioner, filed against the order of the 2nd respondent dated 16-12-2004 as arbitrary, malafide, improper,

illegal unconstitutional and against the rights to appeal and consequently set-aside the order in Ref/3132/2004 dated 16-12-2004 issued by the 2nd respondent thereby enabling the petitioner to continue as permanent fair price shop dealer of Nagambotlapalem Village, Tallur Mandal, Prakasam District.

Counsel for the Petitioner: MR.RAJANIKANTH JWALA

Counsel for the Respondents 1 to 3: GP FOR CIVIL SUPPLIES

Counsel for Respondents 4 to 7: Mr P.Veerareddy, Advocate

The Court at the admission stage made the following:

ORDER:

The petitioner is functioning as a fair price shop dealer of Nagambotlapalem Village, Tallur Mandal, Prakasam District, since 1986. The Mandal Revenue Officer, 3rd respondent, opened the shop on 09.12.2004 by himself, on the ground that the petitioner was not present when he proposed to inspect the fair price shop. On noticing certain irregularities, he seized various quantities of rice, kerosene oil and tamarind. He also seized the empty barrels, empty gunny bags etc. under panchanama of the same date. On the basis of the same, the 2nd respondent suspended the authorization of the petitioner on 16.12.2004. The petitioner preferred an appeal before the 1st respondent against the order of suspension along with an application for interim orders. Complaining that the 1st respondent has not passed any interim orders in the stay application, the petitioner approached this Court by filing the writ petition.

Certain cardholders got themselves impleaded in the writ petition and filed a counter affidavit narrating the circumstances under which the shop of the petitioner was opened by the 3rd respondent.

Heard learned counsel for the petitioner, learned Government Pleader for Civil Supplies and learned counsel for the impleaded respondents.

The writ petition came up ‘for admission’ on 31.12.2004. This Court took a serious exception to the procedure and method adopted by the 3rd respondent in forcibly

opening the shop of the petitioner, without requiring him to explain discrepancies, if any. It was also pointed that the 3rd respondent has no jurisdiction to touch the items, which are not essential commodities. The interim direction was issued to the effect that the petitioner be restored his dealership.

On a subsequent date, the Revenue Divisional Officer as well as the Mandal Revenue Officer appeared before this Court. They expressed their regrets in the matter and represented that they ought not to have resorted to such steps, which are basically without any legal authority. It was also represented that the petitioner is being supplied the essential commodities from the month of February, 2005 onwards and proceedings were initiated under Clause 5(4) of the A.P.State Public Distribution System Control Order,2001 by issuing show cause notice as well as those under Section 6-A of the Essential Commodities Act (for short 'the Act') before the 1st respondent.

Though several contentions are urged on behalf of the impleaded respondents as well as by the learned Government Pleader, this Court is not inclined to deal with the same at this stage.

Hence, the writ petition is disposed of, directing that the petitioner shall be entitled to continue as dealer, till the disposal of the proceedings by the 3rd respondent in pursuance of the show cause notice said to have been issued by him. It shall be open to him either to await the outcome of the proceedings under Section 6-A of the Act or to proceed independent of the same. The 3rd respondent shall return to the petitioner, the empty barrels, gunny bags as well as the tamarind seized from the petitioner. The seizure of rice and sugar shall be subject to the outcome of the proceedings under Section 6-A of the Act.

In view of this order, it shall not be necessary for the 1st respondent to pass any orders in the appeal and the same becomes infructuous. There shall be no order as to costs

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07.02.2005

Jsu

To

1 The Joint Collector, Prakasam Dsitrict at Ongole.
2 The Revenue Divisional Officer, Kandukur, Prakasam Dist.
3 The Mandal Revenue Officer, Tallur Mandal, Prakasam District.

4 2 CCs to the G.P. for Civil Supplies, High Court of A.P., Hyderabad (OUT).

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